

Christine Chang Pro Per, Individually
And Eric Sun, disabled
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FILED

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CHRISTINE CHANG, individually
And ERIC SUN, disabled

Plaintiffs,

vs.

ROCKRIDGE MANOR
CONDOMINIUM et al.

Defendants.

Case No: C-07-4005 EMC

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
APPOINTMENT OF COUNSEL
FOR GUARDIAN AD LITEM
FOR DISABLED PLAINTIFF SUN
AND LEAVE TO FILE SUPPORTING
DOCUMENTS

Date: April 23, 2008

Time: 10:30 a.m.

Courtroom: C, 15th Floor

Judge: Honorable

Edward M. Chen

INTRODUCTION

Plaintiff Sun is a disabled adult with mental illness of Schizophrenia Paranoid

Type (295.30) and as such, lacks the legal and mental capacity to represent himself.

The court proceedings will cause his symptoms to become worse due to his fear of people

1 and unable to withstand pressure. Plaintiff Sun was working at the Oakland Downtown
 2 YMCA as a towel clerk and taking care of himself and his pet before the Rockridge Manor
 3 Condominium Defendants summoned the John George Crisis Center and Oakland police
 4 framing him being dangerous and violent and having a gun. Immediately after the incident
 5 Plaintiff Sun's symptom worsened losing his ability to leave home and to take public
 6 transportation to and from work.

7 Moreover, the Rockridge Manor Condominium Defendants caused the assault/battery
 8 Defendant Constance Pepper Celaya to beaten disabled Plaintiff Sun while these Defendants
 9 were fully aware of Plaintiff Sun's physical and mental impairments. Immediately after the
 10 assault/battery incident Plaintiff Sun's symptom became severe. Because these Defendants'
 11 continuous persecution and stalking in the Rockridge Manor Condominiumd and Plaintiff
 12 Sun's fearful of them, he was forced to live in Board and Care for over a year. It was only
 13 after Plaintiff Chang sold the Rockridge Manor condo unit and rented an apartment away
 14 from the Rockridge Manor Condominium that Plaintiff Sun was finally able to live at home.

16 Ever since these two incidents, Plaintiff Sun's medication has increased from 1 mg of
 17 Risperdol a day to multiple antipsychotic medications (Seroquel, Abilify, Chlorpromazine,
 18 Clonazepam, and Benztropine) to over 1500 mg daily. His mental illness is so severe
 19 that he mutilates himself from time to time caused by fear of people. He is unable to
 20 work relying solely on the Social Security Supplemental Income \$1049 monthly (exhibit 2).
 21 Although Plaintiff Chang is taking care of Plaintiff Sun but does not support him financially.

22 Plaintiff Sun's injuries are **continuous** and caused directly by these Defendants'
 23 intentional torts with conscious disregard Plaintiff Sun's disabilities.

24 **ISSUES TO BE DECIDED**

25 1. California Probate Code Section 810(c) – A judicial determination that a person is
 26 totally without understanding, or is of unsound mind, or suffers from one or more mental

1 deficits so substantial that, under the circumstances, the person should be deemed to lack the
2 legal capacity to perform a specific act, should be based on evidence of a deficit in one or more
3 of the person's mental functions rather than on a diagnosis of a person's mental or physical
4 disorder.

5 2. California Probate Code Section 811(a) – A determination that a person is of unsound
6 mind or lacks the capacity to make a decision or do a certain act, including, but not limited
7 to, the incapacity to contract, to make a conveyance, to marry, to make medical decisions,
8 to execute trusts, shall be supported by evidence of a deficit in at least one of the following
9 mental functions:

10 (1) Alertness and attention

11 (2) Information processing, including, but not limited to

12 (A) Short and long-term memory.

13 (B) Ability to understand or communicate with others, either verbally or otherwise.

14 (E) Ability to reason using abstract concepts.

15 (F) Ability to plan, organize, and carry out actions in one's own rational self-interest.

16 (G) Ability to reason logically.

17 (3) Thought processes. Deficits in these functions may be demonstrated by the presence of:

18 (A) Severely disorganized thinking.

19 (B) Hallucinations.

20 (C) Delusions.

21 (D) Uncontrollable, repetitive, or intrusive thoughts.

22 (4) Ability to modulate mood and affect. Deficits in this ability may be demonstrated by the
23 presence of a pervasive and persistent or recurrent state of euphoria, anger, anxiety, fear,
24 panic, depression, hopelessness or despair, helplessness, apathy or indifference, that is
25 inappropriate in degree to the individual's circumstances.

1 Section 811(b) – A deficit in the mental functions listed above may be considered only if the
2 deficit, by itself or in combination with one of more other mental function deficits, significantly
3 impairs the person’s ability to understand and appreciate the consequences of his or her actions
4 with regard to the type of act or decision in question.

5 Section 811(c) – In determining whether a person suffers from a deficit in mental function
6 so substantial that the person lacks the capacity to do a certain act, the court may take into
7 consideration the frequency, severity, and duration of periods of impairment.

8 Section 811(d) – The mere diagnosis of a mental or physical disorder shall not be sufficient
9 in and of itself to support a determination that a person is of unsound mind or lacks the
10 capacity to do a certain act.

11 Section 811(e) – This part applies only to the evidence that is presented to, and the findings
12 that are made by, a court determining the capacity of a person to do a certain act or make a
13 decision.

14 3. California Code of Civil Procedure Section 372(a) –
15 When a minor, an incompetent person, or a person for whom a conservator has been appointed
16 is a party, that person shall appear either by a guardian or conservator of the estate or by a
17 guardian ad litem appointed by the court in which the action or proceeding is pending, or by
18 a judge thereof, in each case. A guardian ad litem may be appointed in any case when it is
19 deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof,
20 expedient to appoint a guardian ad litem to represent the minor, incompetent person. The
21 guardian ad litem shall have power, with the approval of the court in which the action or
22 proceeding is pending, to compromise the same, to agree to the order or judgment to be
23 entered therein for or against the ward or conservatee.

24 4. California Code of Civil Procedure Section 373(c) – When a guardian ad litem is appointed,
25 he or she shall be appointed as follows. If an insane or incompetent person is a party to an action
26

1 or proceeding, upon the application of a relative or friend of such insane or incompetent person,
2 or of any other party to the action or proceeding, or by the court on its own motion.

3 5. California Probate Code Section 1801(a) – A conservator of the person may be appointed
4 for a person who is unable to provide properly for his or her personal needs for physical health,
5 food, clothing, or shelter, except as provided for the person as described in subdivision (b) or
6 (c) of Section 1828.5.

7 6. Federal Rule of Civil Procedure 17(c) – District courts have inherent authority and
8 discretion to determine:

9 (a) whether guardian ad litem needs to be appointed to protect interests of incompetent person.

10 (b) whether guardian ad litem will be compensated for his services and, if so, basis upon which
11 value of such services shall be determined.

12 (c) whether compensation payable to guardian ad litem will be treated (1) as court cost or

13 (2) as expense to be payable out of funds recovered by incompetent person.

14 Under FRCP 17(c) court's power to appoint guardian ad litem is confined to cases where infant
15 or incompetent is "not otherwise represented".

16 7. American with Disabilities Act, 42 U.S.C.S. Section 12131 – with three year statute of
17 limitations in California Civil Procedure Code Section 338(a).

18 8. California Unruh Civil Rights Act – All persons within the jurisdiction of this state are
19 free and equal, and no matter what their...disability are entitled to the full and equal
20 accommodations, advantages, facilities, privileges, or services in all business establishments
21 of every kind whatsoever...A violation of the right of any individual under the Americans with
22 Disabilities Act of 1990...shall also constitute a violation of this section.

23 9. California Disabled Persons Act – Cal. Civ. Code Section 51 –

24 (a) Individuals with disabilities shall have the same right as the general public to the full and
25 free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities,
26

including hospitals, clinics, and physicians' offices, public facilities, and public places.

(c) A violation of the right of an individual under the American with Disabilities Act, of 1990, 42 U.S.C.S. Section 12131, **also** constitutes a violation of this section.

10. Cal. Civ. Code Section 54 - Rehabilitation Act -Although the California Unruh Civil Rights Act does not contain its own statute of limitation, the Ninth Circuit has indicated that the three-year statute of limitations in California Civil Code Section 338 would apply.

11. Title 42 USCS 12101 – Congressional purposes of this Act –

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

LEGAL ARGUMENT

1. See EXHIBIT 1 – Deposition of Johannes Ndlela, Ph.D, for California Probate Code Section 810(c) and 811(a)(b)(c)(d)(e) and 1801(a), California Code of Civil Procedure Section 372(a) and 373(c), and Federal Rule of Civil Procedure 17(c).

2. Defendants' violations of the American with Disabilities Act, 42 U.S.C.S. 12131, was governed by a three-year statute of limitations. The District Court denied defendants' motion to dismiss. *Janine Kramer v. Regents of the University of California*, 81 F. Supp. 2d 972 (1999).

3. California Unruh Civil Rights Act – All persons within the jurisdiction of this state are free and equal, and no matter what their disability are entitled to the full and equal...A violation of the

1 right of any individual under the Americans with Disabilities Act of 1990 shall also constitute a
2 violation of California Unruh Civil Rights Act. *Janine Kramer v. Regents of the University of*
3 *California*.

4 4. California Civil Code Section 54 – Rehabilitation Act. The Ninth Circuit has indicated
5 that the three-year statute of limitations in California Civil Code Section 338 would apply.

6 *Olympic Club v. Those Interested Underwriters at Lloyd's London*, 991 F.2d 497, 501 (1993).

7 5. When substantial question exists regarding competence of unrepresented party court may
8 not dismiss with prejudice for failure to comply with order of court; court has discretion to
9 appoint lawyer to represent party, or proceed with competency determination. *Krain v.*
10 *Smallwood*, 880 F2d 1119 (1989).

11 6. It was entirely appropriate that district court, recognizing plaintiff suffered from some
12 degree of mental retardation, appointed guardian ad litem to assist court in determining propriety
13 of his continued participation in litigation. *Fonner v. Fairfax County*, 415 F3d 325 (2005).

14 7. Plaintiff disabled students filed claims under the Americans with Disabilities Act and
15 Rehabilitation Act. The court held: (1) the students were entitled to compensation for counsel's
16 work; (2) the students were entitled to compensation for counsel's work on discovery and
17 depositions because counsel's conduct was reasonable; (3) the students were not entitled to
18 reimbursement for the work done by their fee counsel because the work was duplicative and
19 unnecessary; (4) the students were not entitled to a multiplier because counsel obtained a result
20 that was similar to the result that would have been obtained by other highly compensated
21 attorneys. *Roxanne Lopez and Hugo Lopez, as guardians ad litem v. The San Francisco Unified*
22 *School District*, 385 F. Supp. 2d 981 (2005).

23 8. The authority to award attorneys' fees is derived in part from American with Disability
24 Act Section 505, which provides that in any action commenced pursuant to the Act, the court in
25 its discretion, may allow a reasonable attorney's fee including litigation expenses and costs.

Jordan v. Multnomah County, 815 F.2d 1258 (1987).

9. Under Federal Rule of Civil Procedure 17(c), a federal court may appoint a guardian ad litem where a minor or incompetent is not otherwise represented. Rule 17(c) flows from the general duty of the court to protect the interests of infants and incompetents in cases before the court. Federal Rule of Civil Procedure 17(b) provides that state law is to determine the appointment of a guardian ad litem.

CONCLUSION

Plaintiffs Chang and Sun have submitted supporting documents for appointing counsel for Plaintiff Chang to serve as guardian ad litem to represent Plaintiff Sun's interest. Plaintiffs respectfully request that this motion be granted to protect Plaintiff Sun who is mentally and physically disabled.

Dated: February 23, 2008

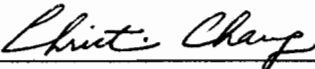

Christine Chang, Plaintiff

EXHIBIT 1

SUPERIOR COURT IN THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

CHRISTINE CHANG, et al.,)

Plaintiffs,)

vs.)

No. 2001-023364

EVA AMMANN, et al.,)

Defendants.)

CERTIFIED COPY

DEPOSITION OF
JOHANNES NDLELA, PH.D.,
OAKLAND, CALIFORNIA
MAY 20, 2004

ATKINSON-BAKER, INC.

COURT REPORTERS

180 Montgomery Street, Suite 800

San Francisco, California 94104

(415) 421-3021

REPORTED BY: REBECCA L. ROMANO, CSR. NO. 12546

FILE NO.: 9E04590

SUPERIOR COURT IN THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

CHRISTINE CHANG, et al.,)

Plaintiffs,)

vs.)

No. 2001-023364

EVA AMMANN, et al.,)

Defendants.)

Deposition of JOHANNES NDLELA, PH.D., taken on behalf of
Defendants, at 411 30th Street, Suite 314, Oakland,
California, commencing at 1:17 P.M.,
Thursday, May 20, 2004, before
REBECCA L. ROMANO, CSR. No. 12546

A P P E A R A N C E S:

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I N D E X

DEPONENT: JOHANNES NDLELA, PH.D.

EXAMINATION	PAGE
BY: MR. BARTOLOTTA	5, 39, 45
BY: MS. ALLMAN	24, 42
BY: MR. VO	34

EXHIBITS

PLAINTIFF		
LETTER	DESCRIPTION	PAGE
	(NONE)	

DEFENDANTS		
NUMBER	DESCRIPTION	PAGE
(NONE)		

QUESTIONS DEPONENT INSTRUCTED NOT TO ANSWER:

(NONE)

INFORMATION TO BE SUPPLIED:

(NONE)

1 JOHANNES NDLELA, PH.D.,
2 having first been duly sworn, was
3 examined and testified as follows:

4 EXAMINATION

5 BY MR. BARTOLOTTA:

6 Q Good afternoon, Doctor. Could you please
7 state your name and spell your last name for the court
8 reporter.

9 A It's Johannes Charles Ndlela, N-D-L-E-L-A.

10 Q Thank you.

11 Have you ever had your deposition taken
12 before?

13 A Well, not -- no, I haven't been.

14 Q Okay. Let me run over some of the ground
15 rules to help you.

16 First off, for the court reporter's sake, wait
17 until I'm done with my question before you start to
18 answer the question because --

19 A Yeah.

20 Q -- she's taking down everything in the room.
21 And if two people are speaking at the same time, it
22 makes it difficult for her to take down the information.

23 If you don't understand one of my questions,
24 and I likely will ask some very bad questions, please
25 let me know that you do not understand the question, and

1 I will try to rephrase it. Okay?

2 A Uh-huh.

3 Q At a later date, you will receive a copy of
4 this deposition in a transcript form, in a booklet form,
5 and you will have a chance to review that and make
6 changes to it.

7 A Uh-huh.

8 Q But you should be forewarned that if you make
9 substantive changes, a "yes" to a "no," or something of
10 that nature, that could be commented upon at a future
11 time, and it could affect your credibility.

12 Do you understand that?

13 A Uh-huh.

14 Q You are under penalty of perjury. I have no
15 doubt that you will tell the truth though.

16 Can you please give me a brief sketch of your
17 educational background, starting with college.

18 A I did my education in South Africa. I
19 graduated from medical school at the University of Natal
20 in Durban. And then I worked at King Edward VIII; I did
21 my internship at King Edward VIII Hospital in Durban.

22 Q And when was that?

23 A I graduated from medical school in 1964. And
24 then '65 I did my internship at King Edward VIII.

25 Q And where is the King Edward --

1 A It's in Durban. It's attached to the
2 University of Natal.

3 Q Okay. And when did you move to the United
4 States?

5 A I moved to the United States in 1980.

6 Q And was that for a job or?

7 A I came in, yeah, to study. I studied public
8 health at Loma Linda University in Southern California,
9 in Loma Linda.

10 Q And when did you move to the Bay Area?

11 A I moved to the Bay Area in 1995.

12 Q And how long have you been working at this
13 particular office?

14 A I'm not sure the -- exactly the date, but --

15 Q You can give me an estimate.

16 A I think it was in -- it is 2001, I think.
17 Somewhere in there, I'm not sure.

18 Q And are you Board certified by the State of
19 California in psychiatry and neurology?

20 A I'm Board eligible.

21 Q And how long have you been -- well, let me
22 start. You are Eric Son's treating psychiatrist at this
23 point in his life?

24 A I started treating him, according to the
25 records, I think it was on the -- on 6-22-02.

1 Q And who was his treating physician prior to
2 that?

3 A Dr. Harris, I notice here, was treating him
4 before that. Yes, in fact, he first saw Dr. Harris
5 according to this.

6 Q And what is the first date of -- you are
7 looking at the prescriptions?

8 A Yes. I am looking at the prescriptions. But
9 there is an intake here which was done -- let me see.
10 There's an intake here on 3-23 of 2000.

11 Q Why did you become his treating psychiatrist
12 as of June 2002?

13 A I think it just happened that the patient was
14 allocated to me at that time.

15 Q And what is -- psychiatric patients are
16 referenced in three -- or four or five different axes,
17 correct?

18 A Yes. There's five.

19 Q Can you explain what each axis is?

20 A The Axis I is the psychiatric diagnosis. Axis
21 II is personality. Axis III is medical conditions.
22 Axis IV is psychosocial stressors. And -- and Axis V is
23 the level of function, which is called the JF, and so --
24 Axis V is level of functioning which is recorded as a
25 global assessments scale. We often refer to it as

1 GAS.

2 Q And what is the scales, of 1 to 100?

3 A Yes. It's 1 to 100.

4 Q Okay. And 1 being bad, 100 being good?

5 A Yes. 100 being good.

6 Q Okay. When you first started treating Eric,
7 what was his Axis I diagnosis?

8 A His Axis I diagnosis has remained basically
9 the same. It's schizophrenia, chronic paranoiac type.
10 I think -- it was his diagnosis, schizophrenia, chronic
11 paranoiac type is -- the code for that is 295.30.

12 Q And what about Axis II?

13 A Axis II was deferred. Axis III was a skin
14 rash in the groin. And Axis IV was a pressures from the
15 job and home. And Axis V was fortified.

16 Q At any time that you were treating Eric, did
17 he indicate that he had social stresses related to
18 problems with neighbors in his apartment?

19 A Yes. He always -- most of the time, he always
20 reports that.

21 Q And what -- what types of things was he
22 reporting?

23 A Well, usually he said that the neighbors, they
24 are looking at him in a particular way, and he's afraid
25 that they might harm him, and -- or perhaps laughing at

1 him or things like that. He's very suspicious and
2 paranoid.

3 Q When you say he's paranoid, I assume that's a
4 term of art in terms of providing a diagnosis,
5 correct?

6 A Well, it's just a description of some of the
7 psychiatric symptoms that he -- he reveals.

8 Q And as part of his schizophrenia, he does
9 exhibit delusions, correct?

10 A Yes.

11 MS. ZIMBA: Objection; vague and ambiguous.

12 THE DEPONENT: It -- being paranoid is a
13 paranoid delusion, because it -- delusion is a false
14 belief. So if you are -- if you believe that someone is
15 looking at you or is going to harm you, it's a
16 delusion.

17 Q (By Mr. Bartolotta) Okay. And that is part
18 of something which Eric experienced?

19 A Yes, he does.

20 Q Was there ever any -- anything that was told
21 to you by Eric that made you arrive at the opinion that
22 he was not having delusions, but that his neighbors were
23 actually spying on him or doing other things directed at
24 him?

25 A I cannot prove that. I don't know. But

1 paranoia is part of his illness.

2 Q What are the other aspects of his illness?
3 What are the other symptoms of schizophrenia?

4 MS. ZIMBA: Objection; compound.

5 Q (By Mr. Bartolotta) What are the symptoms of
6 schizophrenia aside from delusions?

7 A Well, schizophrenia is a chronic mental
8 illness which is characterized by the level of
9 deterioration and the level of functioning, which he
10 has -- I supposed he exhibits. And schizophrenia can
11 present -- you can have positive symptoms like auditory
12 hallucinations, delusions, ideas of reference.

3 And so then you can also have a negative
14 symptoms like anhedonia whereby you're withdrawn and
15 socially withdrawn. You cannot meet with people.

16 Q With respect to Eric, has he ever reported
17 auditory hallucinations?

18 A Not as far as I know. Since I have had him,
19 he hasn't -- I can't -- he has denied auditory
20 hallucinations.

21 Q What about visual hallucinations?

22 A No, he hasn't. And usually visual
23 hallucinations is not a hallmark of schizophrenia. It's
24 usually an indication that there is some mechanic brain
25 disease if they have a visual hallucination. Or people

1 who use drugs usually have visual hallucinations.

2 He hasn't never reported that.

3 Q Do you know when the onset of his
4 schizophrenia was? It was late teens or --

5 A Yes. According to the notes, yeah, that's
6 what I -- I see that must have started at that time.

7 Usually, it starts at that time when people
8 start going to college. That's usually the -- the time.

9 I think here it says '94. I think he must
10 have been around 15, 16, according to the -- to the
11 writing here of Dr. Harris.

12 He was paranoid, thinking that kids were going
13 to kill him, according to this.

14 He was on a summer vacation. He would check
15 windows and check doors. That is also part of the
16 illness.

17 Q Part of the illness is --

18 A Yeah, I mean --

19 Q -- constantly checking --

20 A Constantly checking if there may be -- making
21 sure that the door is closed, that someone might not
22 come in and get you.

23 Q Okay.

24 A Because they usually lock -- isolate
25 themselves in one room, in a room when they are really

1 paranoid and are afraid to get out.

2 Q And so through the course of his treatment at
3 this office, had he always -- has he always complained
4 about problems with the neighbors where he's living?

5 A Yes. He has always complained about
6 neighbors. Most of the time.

7 Q And what is your most recent visit?

8 A It was on the 15th of May. And he said to me
9 I think, "I don't want to live there," meaning where
10 they are living right now. And apparently they are
11 looking at other places.

12 Q Did he explain why he didn't want to live
13 where they are now?

14 A He -- he always complains about people, that
15 they look at him. And he was also complaining at one
16 time about the neighbor upstairs, says, "Neighbors have
17 been driving me crazy. They hit the walls and make
18 noises." He says that, "There is a weird looking guy
19 was sitting in the parking lot, maybe waiting for me."

20 Those are some of the things that he really
21 says.

22 Q And what is the date of that note that you
23 just read?

24 A It was 4-10-04. Also I read a little bit from
25 5-15-04. And then let's see, on 3-6-04, he says,

1 "Neighbors piss me off, making lots of noises.
2 Everybody is home when they should be out doing
3 something."

4 He feels that everybody, the neighbors, are
5 always staying home when they could be out -- out of
6 there.

7 He says, "I didn't do" -- he says, "I said
8 that everybody is home when they should be out doing
9 something, cars parked in the lot. I don't do anything
10 to the neighbors."

11 He says he never talks to the neighbors. He
12 doesn't know them. And then he says, "I won't be
13 paranoid if I didn't live with these people. I want a
14 better apartment."

15 Q Okay. Is the note that you just read, the two
16 notes that you just read, is that kind of the common
17 reports that you have had with Eric in the past?

18 In other words, are these consistent with
19 the -- or has it changed over time?

20 A It has been consistent.

21 Yeah, 2-7, it says, "Neighbors start going
22 outside because it is not winter anymore. Everything
23 disturbs me: Chainsaws, cars, lawn mowers." And he
24 mentions all those things.

25 So that was -- that is basically the same

1 paranoid feelings.

2 He says here, 1-15, it says, "Paranoid, when
3 people says are fucking with me. They turn on portable
4 stereo loud." Complains of many things. That is
5 basically the theme.

6 Q Okay. Has he ever exhibited symptoms of other
7 types of schizophrenia such as has he ever been
8 catatonic that you are aware of?

9 A No, not as far as I was aware. I see here,
10 "He had an outburst" -- this was on 9-18 -- "had an
11 outburst -- outburst on Monday" --

12 MS. ZIMBA: I'm going to object to the extent
13 that that's -- there's no question being posed at this
14 point.

15 Q (By Mr. Bartolotta) Would you please read
16 your note from 9-18-2003.

17 A It says, "He had an outburst Monday night,
18 threw an egg, has been suspicious, seeing someone was
19 walking through the window."

20 Q In the time that you have been treating Eric
21 Son, has he ever acted out violently towards anyone,
22 that you are aware of?

23 A No, not as far as I am aware. He has been
24 appropriate when it comes to visits. I mean, there's no
25 violence. I never known him to be violent.

1 Q In terms of medication that Eric is on
2 currently, what is he -- what is his prescription?

3 At the present moment he's taking Depakote,
4 500 milligrams, three tablets at night. He's taking
5 Benztropine, 1 milligram, one in the morning and one at
6 night. He's taking Seroquel, 1 milligram -- 400
7 milligrams, one in the morning and one at night. He's
8 taking Abilify, 30 milligrams at night. And Klonopin,
9 one to two for anxiety.

10 Q Okay. And --

11 A He has been on several trials of medication.

12 Q How is he reacting to the current trial of
13 medication?

14 A He seems stable on this medication, but the
15 paranoid feelings are still there.

16 Q When is --

17 A But he's -- he's able to function, which is a
18 goal.

19 Q What is -- you said Depakote?

20 A Yes.

21 Q What is that?

22 A Depakote is a mood stabilizer.

23 Q And is that for anxiety? Is that for
24 depression? Or is it just kind of --

25 A It's mainly for anxiety, to moderate his

1 moods.

2 Q And what about these -- Benztropine?

3 A Benztropine is usually given for -- for side
4 effects. Usually, most of these medications, the
5 antipsychotics usually produce side effects. And
6 Benztropine is used for that.

7 The other name is Cogentin.

8 But it is a -- a new one, medication,
9 atypical. He shouldn't be getting side effects. But
10 sometimes you can never -- can never know, can never be
11 100 percent.

12 Q What is --

13 A So --

14 Q Seroquel?

15 A Seroquel is also an antipsychotic. It has
16 to -- it controls the psychotic symptoms.

17 Q When you say "psychotic symptoms," how would
18 you define psychotic symptoms?

19 A Psychotic symptoms are defined as those
20 symptoms which are maybe auditory hallucinations,
21 paranoid ideations. All those things that are -- are
22 within the range of -- are not within the range of
23 normal.

24 Q Okay. I think the next one was Abilify?

25 A Abilify is one of the newer medications which

1 has also got less side effects. And he's given -- we
2 give him -- especially at night, it also has a sedative
3 quality to it.

4 Q And is it an antipsychotic or --

5 A It is also an antipsychotic.

6 Q And Klonopin, what is Klonopin?

7 A Klonopin is Benzodiazepine, which has -- which
8 you can use for anxiety.

9 Q Is it similar to Valium?

10 A Yes. It's in the same class.

11 Q With respect to the treatment, the time that
12 you have been treating Eric Son, do you have any
13 specific recollection, either just through your memory
14 or through review of your notes, of him mentioning
15 Elizabeth Lady, a neighbor named Elizabeth Lady?

16 A No, I can't remember.

17 Q Okay.

18 A I can't remember. I would -- maybe I would
19 have written it down. I can't remember. Maybe -- I
20 don't know. I would have to look through all my notes.
21 But offhand, I can't remember.

22 Q Are there any specific names of individuals
23 who Eric complained about that would be in your notes?

24 A Well, the only names of individuals -- he
25 mentioned his doctor. I think, I don't know whether

1 he -- he said he didn't like -- I will have to look at
2 this.

3 I think there was something about a doctor. I
4 don't know whether he was going visiting and he stopped
5 going there because he said that the hours were -- were
6 quite weird.

7 While he was in reported care, he was
8 supposed -- they were supposed to see that doctor, but
9 he didn't want to go there, because he said that the
10 doctor -- moved into another apartment because seeing a
11 different psychiatrist. Let's see.

12 I think that's the only thing I remember. Oh,
13 it says, "Patient doesn't want to see Dr. Sanders.
14 Dr. Sanders doesn't take appointments." He didn't take
15 appointments. He just let them -- the patient just come
16 and wait.

17 Q I see.

18 A And he would wait until 9:00 p.m. without
19 being seen. And if he comes in the following day, he
20 would also still have to wait.

21 Q Since you have been treating Eric Son, has he
22 been hospitalized at all?

23 A No, he hasn't been.

24 Q This is kind of an impossible question, I
25 think. Can you tell what the cause of schizophrenia

1 is?

2 A Well, schizophrenia is a psychiatric condition
3 that affects approximately 1 percent of the population.
4 It is -- I can't say the real cause. It's not known,
5 but it's -- several theories have been postulated.

6 Some have postulated infection during
7 childhood, or some have postulated influenza infection,
8 viral infection, encephalitis. And it does say --
9 interfere, especially with the dopamine in the brain,
10 those are neurotransmitters.

11 Those are just new theories. That's why the
12 new medications, they affect the dopaminergic pathways
13 in the brain.

14 But it is really -- no one really knows why it
15 is caused. And then there were old -- there are old
16 theories, developmental theories about being -- about
17 development, what happens in the environment.

18 So I cannot postulate any --

19 Q Okay.

20 A -- any theories.

21 Q Is there also evidence that suggests some
22 genetic connection?

23 A Genetic, especially now, that's what they are
24 working on --

25 Q So it sounds like --

1 A -- the genetics, but they haven't really
2 identified the gene that is -- is involved.

3 Q So it sounds like every branch of medicine has
4 their theory. It's --

5 A Yes, every -- every branch.

6 Q Okay. Based upon your treatment of Eric
7 Son -- well, let me just give you a little bit of
8 background.

9 Part of what this case is about is a situation
10 where social services arrived at Eric Son's apartment
11 with a police officer.

12 A Uh-huh.

13 Q And part of the question is -- is how would
14 this -- would this cause damage to Eric Son, would this
15 be a traumatic event for him.

16 And I would like to know if you have an
17 opinion one way or the other as to whether that would or
18 would not.

19 A Well --

20 MS. ZIMBA: Objection. That's an incomplete
21 hypothetical.

22 Q (By Mr. Bartolotta) You can provide an answer
23 if you --

24 MS. ZIMBA: If you can. It's a completely
_5 incomplete hypothetical. There's absolutely no basis

1 for it. It lacks foundation. It is incorrect, because
2 it wasn't social services.

3 Q (By Mr. Bartolotta) Okay. My question
4 essentially is: Will Eric Son react differently than
5 most people without schizophrenia would act to a
6 stressful situation?

7 In other words, a paranoid schizophrenic who
8 is experiencing a stressful situation, will they react
9 to it differently than you or I?

10 MS. ZIMBA: Objection; incomplete
11 hypothetical.

12 THE DEPONENT: Eric will react in what way?

3 Q (By Mr. Bartolotta) Well, will it become a
14 focus of their delusions? Will it cause them greater
15 anxiety? Will it cause them to suffer depression?

16 It's kind of a difficult question to --

17 A It is.

18 Q But one of the claims in the -- one of the
19 claims in the case is that Eric Son did suffer emotional
20 damages as a result of the incidents that happened.

21 So I'm trying to figure out if somebody is
22 schizophrenic and they are confronted with a trauma,
23 will it have a greater reaction on them than somebody in
24 the normal population.

5 MS. ZIMBA: Same objection.

1 Q (By Mr. Bartolotta) Is there a way to answer
2 that question?

3 A Yes, it is. It is a difficult question. You
4 cannot really -- you cannot really predict what -- how
5 they are going to be or what -- it is a very difficult
6 question.

7 Q Okay.

8 A Yes.

9 Q Do people with schizophrenia -- I mean --

10 A Because now it brings in things like PTST,
11 which is really not the issue, what we are talking about
12 here.

13 Q Okay. Do people with schizophrenia have
14 varying levels of it? In other words, the severity of
15 the schizophrenia, can it vary from person to person?

16 A Oh, yes, it can vary from person to person.
17 But it is always a downward condition. It's always -- I
18 mean, if you took -- take out the level, the condition
19 always goes down. You never really improve.

20 Q Okay.

21 A But it can vary according -- I mean, with
22 different people, nurturing can be one of the things
23 that make it better, the factors in the environment, the
24 compliance with the treatment. Maybe if Eric was not
25 treated or being seen on a regular basis, he could be

1 worse than this.

2 Q Has Eric complied with the treatment that has
3 been prescribed?

4 A Yes. In my opinion, he is very compliant. He
5 keeps his appointments. He comes almost every month.

6 Q Okay. So -- and he's been compliant in
7 showing up?

8 A And he takes his medication. And he
9 participates in the decision about his medications. I
10 discuss them with him each time he comes.

11 MR. BARTOLOTTA: Okay. I don't have any
12 further questions right now. If somebody else wants to
13 ask questions.

14 EXAMINATION

15 BY MS. ALLMAN:

16 Q Can you tell me what type behavior a paranoid
17 schizophrenic would exhibit when confronted by a
18 stranger?

19 MS. ZIMBA: Just in general?

20 Q (By Ms. Allman) Yeah. Just the type symptoms
21 that -- or not symptoms, the behavior they would display
22 if they felt threatened.

23 A Well, with him, it would be the paranoid
24 feelings. Perhaps, he might have some anxiety. But all
25 that is very postulation. I'm postulating he could have

1 some anxiety.

2 Q Well, I'm trying --

3 A He could lock himself in the house or not get
4 out. Those are some of the things that have been --
5 have been seen.

6 Q And are there any typical things that paranoid
7 schizophrenics say if they feel threatened?

8 A Nothing, I mean, apart from what Eric has said
9 here.

10 Q Do paranoid schizophrenics act particularly
11 defensive when they feel threatened?

12 A Well, they would always have. I mean, it's a
13 natural reaction to any threat, that you feel threatened
14 when you are -- when someone just approaches you. I
15 think they would be -- they would feel threatened.

16 Q And what type things do paranoid
17 schizophrenics do to defend themselves?

18 A It is mainly withdrawn. They become paranoid
19 and withdrawn. They don't want to interact, to get out.
20 They don't get out and be aggressive. They -- they
21 socially withdraw from the thing that might stimulate
22 them.

23 Q Is it consistent with a paranoid
24 schizophrenic's behavior to, when threatened, threaten
25 back? Is that consistent?

1 A To threaten back?

2 Q Right.

3 A You mean, to fight?

4 Q Or not to fight, but just to say, hey, you
5 know, come any closer and I'm going to --

6 A Some of the behaviors or with some of the
7 patients, perhaps they might feel the need to protect
8 themselves. Like a patient can feel the need of
9 carrying a knife, being afraid that he might be
10 attacked, just as a matter of protection, or sleep with
11 a knife or something, with a weapon. Sometimes they do
12 that, which is possible.

3 Q Sleep with a weapon, did you say?

14 A Yes. Some -- I have seen some other patients
15 who come in with a story that whenever they sleep, they
16 sleep with a weapon because they are afraid that someone
17 might come in and attack them.

18 So those are some of the ways might react that
19 way.

20 Q Would it also be consistent for someone to
21 state that they had a weapon in order to protect
22 themselves?

23 A To state?

24 Q In response to some fear or anxiety, state --
25 state that they have a weapon.

1 A Some -- some say that they -- there are some
2 who might say, who might carry a weapon, that I feel I
3 should kill myself before they kill me. Some usually
4 say that.

5 Q What about actually threatening others that
6 they have a gun or a weapon?

7 A It is possible. They can -- they can -- they
8 can do that if they really feel they are threatened.

9 There are -- I have seen some of the patients
10 who are brought in on a 5150, sometimes carrying a
11 weapon or carrying a knife with the purpose of
12 protecting themselves. That's what they said.

13 Q And would it be consistent with a paranoid
14 schizophrenic for them to indicate that they had a
15 weapon even if they, in fact, did not, in order to
16 protect themselves, or to give that appearance that they
17 had a weapon when they, in fact, did not?

18 A They always say -- they usually say they
19 would -- I mean, most -- the most -- most of the
20 patients I have seen, they usually say if they have a
21 weapon.

22 I had one just today who was brought in by the
23 police and went to the doctor, and he had a knife, and
24 he handed the knife to the doctor.

25 Q I guess what I'm trying to get at,

1 specifically, is it -- would it be consistent with a
2 paranoid schizophrenic's behavior for him or her to say,
3 to -- to indicate that they had a weapon when, in fact,
4 they did not, so that they could give the appearance
5 that they --

6 A No.

7 Q -- were protected?

8 A That, I don't know. I really don't know.

9 Q Okay. Would it surprise you, based on what
10 you know about Eric Son, that if he were to have
11 indicated that he had a gun when approached by -- or
12 when confronted by someone?

13 MS. ZIMBA: Objection; incomplete
14 hypothetical.

15 Q (By Ms. Allman) Would it --

16 A Would it be --

17 Q Would that surprise you, knowing what you know
18 about Eric Son, if he were to have threatened to have
19 had a gun?

20 MS. ZIMBA: Same objection.

21 THE DEPONENT: I -- I really don't understand
22 the question because, as I said, that he hasn't been
23 violent, and he has no history of violence. I wouldn't
24 really imagine him having a gun. I really don't know.
25 I cannot answer that.

1 Q (By Ms. Allman) Okay. Let's assume he didn't
2 have a gun.

3 A Yes.

4 Q Would it surprise you if he told someone he
5 did have a gun when, in fact, he did not?

6 MS. ZIMBA: Same objection; incomplete
7 hypothetical.

8 THE DEPONENT: I don't know if I -- I can't
9 answer that.

10 Q (By Ms. Allman) What extremes have you seen
11 patients with paranoid schizophrenia go to in order to
12 defend themselves against what they perceive as a
13 threat?

14 A As I said before, that if they are in this
15 room, they would lock the room, make sure that the room
16 is locked, barricade them -- themselves. And they might
17 do a quite a number of things, check the windows whether
18 they are closed. But those are the ways of making sure
19 that their environment is safe.

20 And then when they are outside, then they will
21 be always doing that -- that checking or, I mean,
22 looking at people and checking whether people might not
23 be following them or about to hurt them.

24 But the other thing we should bear in mind is
25 that it's not only about protection, about being afraid

1 of people. People who are paranoid, they are sometimes
2 afraid to eat, thinking that their food might be
3 poisoned. And then they can lose a lot of weight
4 because of that.

5 They can even refuse the medication that we
6 give them believing that we are offering them poison.
7 They can believe they are being watched by cameras. And
8 they have a long story.

9 So it's a complicated thing. We -- it looks
10 like -- we cannot only concentrate on the things that --
11 we cannot only concentrate on the fact that it's only
12 people that they are afraid of. The whole environment
3 and everything.

14 Q And as a treating doctor, there's no way you
15 can determine whether what they are reporting is based
16 on fact or a delusion?

17 A Yes, you have to prove whatever delusion. You
18 have to find out whether that is consistent with what is
19 actually happening.

20 Q And have you made any assessments in Eric
21 Son's case as to whether there is any validity to
22 anything that he reported?

23 MS. ZIMBA: Objection; vague and ambiguous;
24 compound; lacks foundation.

25 THE DEPONENT: To check whether what he says

1 is -- is valid or not?

2 Q (By Ms. Allman) Is accurate.

3 A I don't think that is my job to go and assess
4 that, because it means I must go out to where Eric lives
5 and really --

6 Q So if --

7 A -- that's a --

8 Q I'm sorry.

9 A And it means that I must go over to Eric's
10 place and assess the validity of that.

11 Q That's not your role?

12 A No, I don't think that I have to go out
13 there.

14 Q So if Eric Son were to complain, for example,
15 that his mother were stalking him, you wouldn't make any
16 kind of independent investigation into that?

17 A I can talk to the mother if Eric agrees.
18 There are also issues of confidentiality, and I have to
19 abide by those. Before I can talk to anyone or do
20 anything, I need to get permission from Eric to do
21 that.

22 Q Did Eric Son ever have any verbal outbursts in
23 your presence?

24 MS. ZIMBA: Objection; vague and ambiguous.

25 THE DEPONENT: I can't remember.

1 Q (By Ms. Allman) Why is it that -- if you
2 know, why does schizophrenia begin when people go to
3 college or at that stage?

4 A Well, there are many theories as far as that
5 is concerned. All of them have got to do with the
6 change of environment, the nurturing, they have been in
7 a nurturing environment and then they go out, they are
8 on their own. And they have lots of stressors that are
9 facing them. That's when -- then probably begins at
10 that time.

11 Q So would you anticipate that Eric Son, if he
12 were left on his own, if his mother went away for
13 approximately one week, that he would find that to be
14 more stressful?

15 A For one week? Well, I mean by being -- by
16 changes, you see, I think changes that are on ongoing
17 basis. Just for the mother leaving for one week and
18 coming back, it won't necessarily make him
19 schizophrenic.

20 Q You --

21 A Therefore --

22 Q You don't feel that that would in any way
23 aggravate his symptoms?

24 A Well, if he's already has schizophrenia or if
25 he -- he's just a normal person, normal coping person?

1 Q No. I'm talking about Eric Son.

2 A If he's left alone?

3 Q He's living with his mother on an ongoing
4 basis --

5 A Uh-huh.

6 Q -- on a day-to-day basis, and she leaves for
7 approximately one week, and leaves him alone in the
8 apartment.

9 A It might affect him.

10 Q How so?

11 A He might be paranoid and be scared and be
12 anxious for that -- for that time.

13 Q Because of the jeopardy to the nurturing
14 environment?

15 A Because he's left alone. I mean, he's
16 unsettled about what -- about the conditions that are
17 going on at the moment. Especially if you are paranoid,
18 you really don't know what might be happening within
19 your environment, if you are left alone.

20 MS. ZIMBA: I'll pass the questioning.

21 MR. VO: I just have a few follow-up
22 questions.

23 THE DEPONENT: Yes.

24
25 EXAMINATION

1 BY MR. VO:

2 Q During your course of treatment with Eric Son
3 from June 2002 to the present, has he referenced any
4 neighbors by name who caused him stress or --

5 A By name?

6 Q Yeah.

7 A No, he hasn't said that. I have no names.

8 Q Okay. And -- and during the course of your
9 treatment with Eric Son, have you had conversations with
10 anybody else other than Eric Son?

11 A Sometimes --

12 MS. ZIMBA: Objection; vague and ambiguous.
13 In reference --

14 Q (By Mr. Vo) Go ahead.

15 A It's only the mother who accompanies him.

16 Q Okay. And have you spoken with -- with
17 Ms. Chang about Eric's condition or what causes it?

18 A Yes. Because whenever she expresses concern,
19 perhaps around medication, also around psychiatric
20 symptoms that perhaps might still be going on.

21 Q Okay. And what has Ms. Chang told you
22 regarding her belief about what the causes are of his
23 paranoia schizophrenia?

24 MS. ZIMBA: Objection. I think that extends
25 beyond the scope of this deposition.

1 THE DEPONENT: No, she's not in a position --

2 MR. VO: Pardon me.

3 MS. ZIMBA: I think that invades her right to
4 privacy. It extends beyond the scope of the deposition
5 and the parameters that the Court set forth to discuss
6 what it is that Ms. Chang may have discussed with
7 Dr. Ndlela.

8 Q (By Mr. Vo) Are you aware -- has Ms. Chang
9 ever told you about a lawsuit?

10 MS. ZIMBA: Same objection.

11 Q (By Mr. Vo) Dr. Ndlela?

12 A I'm aware that there is a lawsuit, but I
13 really don't know what it entails.

14 Q Can you tell me what, if anything, you know
15 about the lawsuit?

16 A I really never asked, probed to find out what
17 it was all about.

18 Q Do you know what event -- strike that.

19 Are you aware of any stress event in the year
20 2000 that may have worsened or caused Eric Son to become
21 a paranoid schizophrenic?

22 A Year 2000 --

23 Q Yeah.

24 A -- 2002. 2002?

25 Q The year 2000. In the year 2000.

1 A No.

2 Q What about the year 2000 --

3 A I hadn't even had Eric. I don't know. Maybe
4 I can look at Dr. Harris' notes about 2000.

5 Q Have you reviewed Eric Son's treating records
6 from Dr. Harris before you took on the charge of Eric?

7 A Yes, I did.

8 Q Okay. And in your review of those notes, are
9 you aware of any stressed events in the year 2000 that
10 may have caused Eric Son to become either a paranoiac
11 schizophrenic or made the condition worse?

12 A Well, I don't think that it would be an event
13 that would make him worse because he already has, you
14 see, the condition, the disease.

15 Q Okay. And I'm not sure if I understood you
16 earlier. I think what you were saying was the condition
17 deteriorates. That means, doesn't it --

18 A Yeah. Yes, it does. It does.

19 Q -- that it does get better or it does not get
20 better?

21 A It doesn't get better.

22 Q Okay.

23 A It deteriorates.

24 Q So --

25 A It's a downward mobility.

1 Q Let me see if this is correct.

2 A Yes.

3 Q If it goes untreated, it gets a lot worse, but
4 it goes untreated, it doesn't necessarily get better?

5 A It doesn't necessarily get better.

6 Q Okay.

7 MR. BARTOLOTTA: Does it ever get better?

8 THE DEPONENT: It doesn't. It doesn't get
9 better. It rarely -- they always draw it as a downward
10 condition. It's a -- what determines is the amount of
11 nurturing, the treatment. That would depend on whether
12 it goes like this or like this.

3 Q (By Mr. Vo) Do you have an opinion whether or
14 not any events or activities of a neighbor caused Eric
15 Son to be -- Son's condition to worsen?

16 A No. Opinion of knowing --

17 Q Yeah. Any medical opinion about any of the
18 neighbor's activities that may have caused Eric Son's
19 condition to worsen.

20 MS. ZIMBA: Well, I am going to object to that
21 to the extent that --

22 Q (By Mr. Vo) Do you have any opinion at all?

23 MS. ZIMBA: -- he's really already said that
24 he doesn't, that he's not aware of the lawsuit. He
25 hasn't --

1 THE DEPONENT: I'm not --

2 MS. ZIMBA: -- probed into that.

3 THE DEPONENT: I'm really not aware. I don't
4 know what the neighbors did. I cannot really relate
5 about that because I really never probed to find out
6 what the neighbors did and who those neighbors were.

7 Q (By Mr. Vo) Okay. Well, in your -- during
8 the time that you treated Eric Son, he was also
9 complaining about neighbors, correct?

10 A You mean the patient?

11 Q Yeah.

12 A Yes. He has always complained. It's part of
13 his -- I think it's part of his paranoid feelings of
14 this illness.

15 Q When you say that you think it's part of his
16 paranoid delusions, have you had discussions with Eric
17 about the difference between perceived threats versus
18 real threats?

19 Do you know what I mean?

20 When you say delusion, it's a perceived threat
21 that's unreal, correct?

22 A Yes.

23 Q Okay. Now, have you -- have you -- do you
24 know if Eric knows the difference between a perceived
25 threat or a delusion versus something that's real?

1 A As someone who has schizophrenia, he would not
2 be able to distinguish. That's why they are sick. They
3 cannot distinguish between reality, something that's
4 going on. They have -- they need -- even if you do a
5 reality testing, they cannot. And you cannot tell them
6 that this is not -- this is a delusion.

7 Q Okay.

8 A Because it won't help them. It won't help you
9 or help anyone if you tell them --

10 Q Okay.

11 A -- that you are having a delusion.

12 Q I'm being real ignorant here.

13 Is part of the treatment to help the patient
14 understand the difference between perceived versus real
15 threats? Or you are saying it doesn't help, you are not
16 able to do that?

17 A You can try, but the patient will not
18 really -- because to him, the patient will tell it's
19 real to him, it's really happening.

20 MR. VO: Okay. Thank you. I have nothing
21 further.

22 FURTHER EXAMINATION

23 BY MR. BARTOLOTTA:

24 Q I just -- in looking through the progress
25 notes, and I believe these were with Dr. Harris.

1 First of all, is Dr. Harris still with this
2 facility?

3 A Yes, he is. He's a director of this
4 facility.

5 Q Okay. In looking through some of his notes,
6 and I think yours are probably in chronological order,
7 I'm looking at the mental status and assessment progress
8 notes.

9 A Where is that?

10 Q It looks like August 2000. You know what I'm
11 going to do? I'm simply going to hand it to you.

12 A Let's see. Let's see. May 2002.

13 Q It's hard because it doesn't have a date on
14 it. Oh, no, it does. Tell you what, if you look at the
15 bottom here, the date says 7-20-2001, assuming that's
16 actually -- you know, they all say that. It doesn't
17 help.

18 MR. VO: Why don't you show it to him.

19 Q (By Mr. Bartolotta) I'm just looking at this
20 where it says, "Delusion," and it says, "Yes." And then
21 "Paranoid, people in building."

22 A Uh-huh.

23 Q I can't quite read that. And then --

24 MR. VO: Wearing his Walkman.

25 Q (By Mr. Bartolotta) So I think he's putting

his Walkman on.

A Yeah. Sometimes they do.

Q And then here's another note. Again, it says --

A "Paranoid."

Q -- "He does have delusions. Paranoid people in building out to get him."

A It says here he has delusions.

Q Okay.

A They checked "Yes."

Q And so that is -- I mean consistently been characterized as a delusion as opposed to a complaint --

MS. ZIMBA: Objection.

Q (By Mr. Bartolotta) -- of a --

MS. ZIMBA: Vague and ambiguous.

Q (By Mr. Bartolotta) Well, and through your treatment, Eric has told you that he's concerned about the way people in his building or his neighbors are treating him, correct?

A Uh-huh.

Q They are either spying on him or --

A Uh-huh.

Q -- out to get him?

A Uh-huh.

Q And you have characterized that or you would

1 characterize that as a delusion; is that correct?

2 A Yes.

3 MR. BARTOLOTTA: I don't have anything
4 future.

5 FURTHER EXAMINATION

6 BY MS. ALLMAN:

7 Q Do caregivers or parents, do they have a
8 tendency to try and believe what it is their child, who
9 is affected by paranoid schizophrenia, is saying when in
10 fact it's a delusion?

11 A When the parents --

12 MS. ZIMBA: Objection; vague and ambiguous,
13 and incomplete.

14 Q (By Ms. Allman) Do parents have a tendency to
15 try and believe it or to believe what it is the paranoid
16 psychotic person --

17 A Well, the parents --

18 Q -- is saying?

19 A -- are more concerned about having a sick -- a
20 sick child, that their -- that their main thing is --
21 especially if you have a child with mental illness.

22 Q Do they tend to believe what it is they are
23 complaining of, the things that they are reporting, like
24 people are stalking me and out to get me? Or -- in your
25 experience, have parents been able to --

1 A I cannot --

2 Q -- disassociate --

3 A I cannot answer that.

4 Q Okay. You don't treat the family as the
5 whole?

6 A We do treat the families as a whole -- as a
7 whole.

8 Q What have you noticed in the case of --

9 A But it would really be generalizing really.
10 That's why I cannot answer.

11 Q Well, in the case of Mrs. Chang, have you
12 noticed any tendency on her part to believe in the
13 delusions of Eric Son?

14 MS. ZIMBA: Objection; invades Ms. Chang's
15 right to privacy; completely -- the question completely
16 extends beyond the scope of what the Court set forth as
17 to what Dr. Ndlela could testify in the deposition
18 today.

19 MR. BARTOLOTTA: He can still answer.

20 MS. ZIMBA: No, he cannot answer that
21 question. That is an invasion of Ms. Chang's right to
22 privacy. And he would be betraying a confidence if he
23 were to answer that question.

24 MR. BARTOLOTTA: Well, I think -- I disagree
25 with you.

1 MS. ZIMBA: Well, then he can make the
2 decision whether he's going to answer the question or
3 not --

4 MR. BARTOLOTTA: Okay.

5 MS. ZIMBA: -- but he can also run the risk
6 that if he answers the question, he's invading
7 Ms. Chang's right to privacy.

8 That was not a part of the scope of this
9 deposition.

10 MR. BARTOLOTTA: Doctor, are you Ms. Chang's
11 treating physician?

12 THE DEPONENT: Ms. Chang's?

13 MR. BARTOLOTTA: Yeah.

14 THE DEPONENT: No.

15 MR. BARTOLOTTA: Have you ever provided her
16 treatment whatsoever?

17 THE DEPONENT: No.

18 MR. BARTOLOTTA: Okay. I will just make the
19 record.

20 Q (By Ms. Allman) The question that I asked was
21 in the case of Mrs. Chang. In your dealings with her
22 when you have treated Eric Son, did she exhibit any
23 tendency to believe the -- what the delusion that Eric
24 Son was reporting?

25 MS. ZIMBA: Same objection.

1 I think that Mr. Ndlela --

2 THE DEPONENT: I think that it is
3 speculation.

4 MS. ZIMBA: -- Dr. Ndlela is running a risk.

5 THE DEPONENT: I think it is best that we just
6 concentrate on Eric Son, the person that I'm treating.

7 Q (By Ms. Allman) You don't have any opinion
8 about Mrs. Chang?

9 MS. ZIMBA: Same objection.

10 THE DEPONENT: I would not like to say
11 anything.

12 MS. ALLMAN: Nothing further.

13 MR. BARTOLOTTA: Do you have any?

14 MR. VO: No.

15 MR. BARTOLOTTA: I have one.

16 FURTHER EXAMINATION

17 BY MR. BARTOLOTTA:

18 Q In terms of this lawsuit, would you, at this
19 point, be able to provide an opinion one way or the
20 other whether any conduct of specific defendants caused
21 Eric Son to have mental pain and suffering?

22 MS. ZIMBA: Well, objection. Dr. Ndlela has
23 already said that he's really not probed into the
24 lawsuit.

25 THE DEPONENT: I'm not --

1 Q (By Mr. Bartolotta) If your answer is no, I'm
2 not going to complain.

3 A Uh-huh.

4 Q And I'm just asking you. Would you be
5 prepared to give an opinion today one way or the other
6 whether any defendant that you know of in this lawsuit
7 did or did not cause Eric pain and suffering?

8 A It's difficult for me to express an opinion
9 because I really don't know the facts.

10 Q I understand.

11 A I think the best thing would be to get a
12 forensic psychiatrist who -- if you really want those
3 answers.

14 Q And I guess the reason I -- the way I phrased
15 the question was is as you sit here today with the
16 information you know, would you be able to express such
17 an opinion?

18 And I only ask this question because I don't
19 want to get to trial and suddenly have you come on the
20 stand and provide an opinion that I wasn't aware of.

21 So I understand you have a limited
22 understanding of how the lawsuit is, you know, what the
23 facts are and who's involved.

24 A Uh-huh.

25 Q So as you sit here today, could you give an

1 opinion one way or the other as to whether the -- you
2 know, Eric Son suffered an emotional injury as a result
3 of defendants' conduct in this lawsuit?

4 A I don't think that I can give that --

5 Q Okay.

6 A -- because I don't know the facts.

7 MR. BARTOLOTTA: I understand. Thank you very
8 much. I don't have any further questions.

9 MR. VO: Thank you, Dr. Ndlela.

10 THE REPORTER: Ms. Zimba, would you like a
11 copy?

12 MS. ZIMBA: Yes.

13 THE REPORTER: Ms. Allman, would you like a
14 copy?

15 MS. ALLMAN: Yes.

16 THE REPORTER: Mr. Vo, would you like a copy?

17 MR. VO: Yes.

18 THE REPORTER: Mr. Bartolotta?

19 MR. BARTOLOTTA: Yes.

20 THE REPORTER: Thank you.

21 MR. BARTOLOTTA: Off the record.

22 (Deposition concluded at 2:18 P.M.)

23
24 ---o0o---

25 STATE OF CALIFORNIA)

)

1 COUNTY OF SAN FRANCISCO)
2
3
4
5

6 I, the undersigned, declare under penalty of
7 perjury that I have read the foregoing transcript, and I
8 have made any corrections, additions or deletions that I
9 was desirous of making; that the foregoing is a true and
10 correct transcript of my testimony contained therein.

11 EXECUTED this _____ day of _____,
12 20_____, at _____, California.

City

3
14
15
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20
21 _____
JOHANNES NDLELA, PH.D.

22
23
24
25 REPORTER'S CERTIFICATE

REPORTER'S CERTIFICATE

I, REBECCA L. ROMANO, CSR. No. 12546, Certified
Shorthand Reporter, certify;

That the foregoing proceedings were taken before me
at the time and place therein set forth, at which time
the witness was put under oath by me;

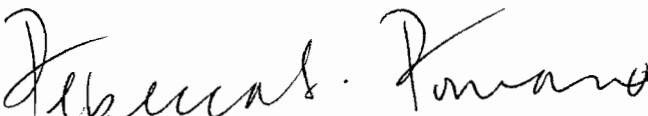
That the testimony of the witness, the questions
propounded, and all objections and statements made at
the time of the examination were recorded
stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript
of my shorthand notes so taken.

I further certify that I am not a relative or
employee of any attorney of the parties, nor financially
interested in the action.

I declare under penalty of perjury under the laws
of California that the foregoing is true and correct.

Date this 4th day of June, 2004.



REBECCA L. ROMANO, CSR No. 12546

CERTIFICATE OF SERVICE

I, CHRISTINE CHANG, hereby certify that on February 29, 2008, I forwarded a true and correct copy of:

1. Declaration of Plaintiff Christine Chang in support of appointing counsel
2. Declaration of Hiawatha Harris, M.D. for appointment of counsel
3. Memorandum of points and authorities in support of appointment of counsel

To Defendants' Counsels by placing a true copy and exhibits thereof in a sealed Envelope with first class postage prepaid and addressed as follows:

Gaylynn Kirn Conant
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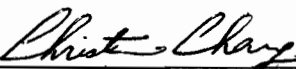
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I caused such envelopes to be placed for collection and mailing in the United States Mail at San Francisco, California.

Dated: February 29, 2008

By 
Christine Chang, Plaintiff